

Appl. No. 10/803,569
Amdt. dated February 13, 2006
Reply to Office Action of January 6, 2006

PATENT

REMARKS

Claims 14, 17-19 and 23 have been examined. Claims 14 and 23 have been amended. Reconsideration of the application, as amended, is respectfully requested.

Examiner Interview

Counsel wishes to thank the Examiner for the interview of February 7, 2006. A summary of the interview is set forth in the Interview Summary form and the remarks set forth below.

Claim rejections – 35 USC 103

Claims 14, 17-19 and 23 have been rejected under 35 USC 103(a) as being unpatentable over Hsin in view of Girard and Seidel and the present application. This rejection is respectfully traversed.

As presently pending, independent claims 14 and 23 include at least four limitations which are neither taught nor suggested in the cited art. Hence, the claims of the present application are believed to be allowable without amendment.

More specifically, independent claim 14 now claims “a pair of connectors rotatably coupled to the upper portion on opposite sides of the opening, wherein each of the connectors includes an aperture.” Through each of these apertures a strip of material passes. In rejecting claim 14, the office action makes reference to Fig. 7 of Hsin. Although the side view of Fig. 7 of Hsin shows a connector with an aperture, there is no teaching in Hsin that the other side of the shoe includes a connector with an aperture through which a strip of material passes.

Second, claim 14 requires a strap that is constructed of a lofted foam material. Nowhere in any of the cited art is there any teaching of a strap that is constructed of such a material. Indeed, the Seidel shoe which is relied upon to teach this limitation does not even contain a heel strap. Since no reference is being relied upon to teach this limitation, such a rejection is clearly improper.

Third, claim 14 includes the limitation of: “at least one strip of material that is connected to the strap so as to have a pair of free ends that extend beyond each end of the strap.”

Appl. No. 10/803,569
Amdt. dated February 13, 2006
Reply to Office Action of January 6, 2006

PATENT

It is important to note that the strip of material is different from the strap which is the piece constructed of the lofted foam material. The strip of material is connected to the strap and has a free end extending from the strap. In rejecting claim 14, the office action makes reference to the strap 26 of the Girard shoe. However, the strap of Girard is a single piece of material which may include a hook and loop fastener material. However, nowhere in the Girard patent is there any teaching or suggestion of using a strap with the addition of a at least one strip of material that is connected to the strap so as to have a pair of free ends that extend beyond each end of the strap. Rather, the strap 26 of Girard is simply that – a single piece of material. As such, strap 26 of Girard does not also include ends of a strip of material that extend beyond the ends of the strap, much less a lofted foam strap from which extends a strip of material as claimed.

Fourth, claim 14 includes the following limitation: “the strap is attached to the connectors, with the ends of the strip of material passing through the aperture in each connector and then folding back on itself.” In contrast, the Girard patent describes a strap 26 where only one end is folded back on itself. As recited in Girard, the other end of the strap “is fixed to one of the flaps 1.” Col. 3, line 18. Hence, Girard fails to teach or suggest that the ends of the strap of material pass through the aperture in each connector and then fold back on themselves.

Hence, for at least these reasons, a prima facie case of obviousness has not been established and it is respectfully requested that the section 103 rejection of independent claim 14 and dependent claims 17-19 be withdrawn.

Independent claim 23 also includes at least four limitations not taught or suggested by the prior art. These include: (1) a pair of connectors rotatably coupled to the upper portion and which each include an aperture; (2) a heel piece that is constructed of a lofted foam material; (3) a pair of strips that comprise a hook and loop fastener material coupled to and extending from each end of the heel piece; and (4) where the strips extend through the apertures in the connectors and then fold back on themselves.

As such, it is respectfully requested that the section 103 rejection of claim 23 also be withdrawn.

Appl. No. 10/803,569
Amdt. dated February 13, 2006
Reply to Office Action of January 6, 2006

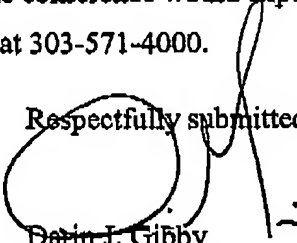
PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


Devin J. Gibby
Reg. No. 38,464

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 303-571-4321
DJG/cl
60678908 v1